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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------------|------------------|
| 09/909,039   | 07/19/2001  | Jarmo Makinen        | 059643.00128                    | 8466             |
| 32294 7590 05/12/2009<br>SQUIRE, SANDERS & DEMPSEY L.L.P.<br>8000 TOWERS CRESCENT DRIVE<br>14TH FLOOR<br>VIENNA, VA 22182-6212 |             |                      | EXAMINER<br>DANIEL JR, WILLIE J |                  |
|  |             |                      | ART UNIT                        | PAPER NUMBER     |
|  |             |                      | 2617                            |                  |
|  |             |                      | MAIL DATE                       | DELIVERY MODE    |
|  |             |                      | 05/12/2009 PAPER                |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/909,039

**Applicant(s)**

MAKINEN ET AL.

**Examiner**

WILLIE J. DANIEL JR

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-30 and 33-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-29, 35 and 37-55 is/are allowed.
- 6) ☒ Claim(s) 33 and 34 is/are rejected.
- 7) ☒ Claim(s) 12-23, 30 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/3508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to applicant's communication filed on 23 October 2008. **Claims 12-30 and 33-55** are now pending in the present application and **claims 1-11 and 31-32** have been canceled. The finality of the rejection of the office action mailed 24 July 2008 is withdrawn, which is hereby replaced with this office action that is made **Non-Final**.

### *Information Disclosure Statement*

2. The information disclosure statement (IDS) submitted on
  - a. 23 October 2008is in compliance with the provisions of 37 CFR 1.97 and is being considered by the examiner.

### *Claim Objections*

3. **Claims 12, 21, 30, 33-34, and 36** are objected to because of the following informalities:
  - a. Claim 12 recites the limitation "...**the** received signal..." in line(s) 9 of the claim. The Examiner interprets as --the **digital** signal-- (see claim 12, line(s) 2) and suggests replacing said limitation to have proper **antecedent** and help clarify the claim language.
  - b. Also, see claims 21, 30, 33-34, and 36 with similar issue as indicated in item 3a.Appropriate correction is required.

4. This list of examples is not intended to be exhaustive. The Examiner respectfully requests the applicant to review all claims and clarify the issues as listed above as well as any other issue(s) that are not listed.

***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 33-34** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

**Claims 33-34** is drawn to a "...method..." *per se* and considered non-statutory subject matter.

- a. Claim 34 recites the limitation "...receiving a digital signal..." in line(s) 2 of the claim. The claim language does not limit the digital signal to an electronic format. For example, a person can receive a printout of (or view) a digital signal generated from an oscilloscope.
- b. Claim 34 recites the limitation "...monitoring pseudo error occurrence in the received signal..." in line(s) 3 of the claim. The claim language does not provide proper antecedent for the '*received signal*' to correspond to above item 5a '*digital signal*'. In this case, a person can receive a signal in the form of verbal, hand gesture, and/or printout. An error may occur, but the person can properly interpret the signal so the appearance of an error is correctly interpreted or minimal for clarification.

- c. Claim 34 recites the limitation "...producing a power control message..." in line(s) 7 of the claim. The claim language does not limit the power control message to an electronic format. For example, a person can provide a verbal message and/or paper message indicating for another person to speak louder.
- d. Also, see claim 33.

Regarding **claims 33-34**, the claim fails to properly meet the condition of being "tied to" a particular *machine* or *apparatus* in order to establish a statutory process (or method) claim. The claim should positively recite the other statutory class (i.e., the thing or product) to which it is tied, by identifying the *apparatus* that accomplishes the method step, or positively recite the subject matter that is being transformed by identifying the material that is being changed to a different state.

- 6. Due to the 101 rejection of the current claim language, the Examiner has given a reasonable interpretation of said language and the claims are rejected as broadest and best interpreted. In addition, applicant is welcomed to point out where in the specification the Examiner can find support for this language if Applicant believes otherwise.
- 7. This list of examples is not intended to be exhaustive. The Examiner respectfully requests the applicant to review all claims and clarify the issues as listed above as well as any other issue(s) that are not listed.

***Allowable Subject Matter***

8. **Claims 24-29, 35, and 37-55** are allowed.
9. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

**Claims 12-23, 30, 33-34, and 36** would be allowable pending corrections.

***Reasons For Allowance***

10. The following is a statement of reasons for the indication of allowable subject matter:
- a. **Claims 12-30 and 35-55** are allowed in view of applicant's communication and accompanying remarks.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a. Yamazaki et al. (US 6,487,686 B1) discloses an error correction method and transmission apparatus.
- b. Govindarajan (US 6,222,877 B1) discloses a method for performance monitoring of data transparent communication links.
- c. Sakane et al. (US 4,788,696) discloses a decision timing control circuit.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIE J. DANIEL JR whose telephone number is (571)272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,Jr/

WJD,Jr  
08 May 2009

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617